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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/752,652

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

12/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/752,652	Applicant(s) ANDERSON ET AL.	
	Examiner Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 28 August 2008 have been fully considered but they are not persuasive.
2. In response to the applicant's argument with respect to claims 1-10 that Bemis fails to disclose a support member direction connected to the swingarm, it is noted that Bemis discloses a swingarm 484 and a support member 464 that are in direct contact when the swingarm is lowered, as shown in figure 16. The support member 464 is shown in figure 16 as being movable between a first position, when in contact with the swingarm 484, and a second position. The present claims do not require the swingarm and support member be bonded together in any permanent manner, and therefore when the swingarm is lowered into direct contact with the support member, Bemis anticipates the claimed invention.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bemis et al. (5,931,822).
5. With respect to claims 1 and 14-17, Bemis discloses a medical device for draining a suction canister 10, as shown in figure 1, having a cover 22 and a liner 14,

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the cover 22 having a port 320. A housing 400 has a swingarm 484 coupled thereto, the swingarm being movable between a first, or upper, position, and a second, or lower, position, as shown in figure 16. A support member 464 is in contact with the swingarm 484 when the swingarm 484 is in the second position, and the support member 464 moves between a first position and a second position, as shown in figure 16. A drainhead 492 has a passageway therein, and is movable between a first position and a second position, as shown in figure 16, the second position allowing access to the canister. A suction source drains fluid from the canister through the drainhead to a sewer, as disclosed in column 1, lines 59-62.

6. With respect to claims 2 and 3, the swingarm and the drainhead interlock, as shown in figure 17, and the swingarm is unable to move further.

7. With respect to claim 4, the support member 464 includes an alignment member comprising branched arms that surround the cover to align the canister relative to the drainhead, as shown in figure 16.

8. With respect to claim 5, a finger notch engages the cover with the canister, as shown in figure 9.

9. With respect to claim 6, the suction source is activated when the swingarm is in the second position, as disclosed in column 11, lines 34-38.

10. With respect to claim 7, the support member further includes a rigid walled container 416 into which the canister is capable of being positioned, as shown in figure 16.

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11. With respect to claim 8, an air tight seal is created when the drainhead is in its second position in order to create a vacuum seal required to drain the canister, as disclosed in column 11, lines 34-38.

12. With respect to claim 9, the swingarm rotates on an axis of 180 degrees between the first and second positions, as shown in figure 16.

13. With respect to claims 10 and 11, the swingarm and drainhead interlock to fix the position of the swingarm relative to the drainheads, as shown in figure 17.

14. With respect to claim 12, the upper portion of the swingarm functions as a handle to allow one to grasp the swingarm during use.

15. With respect to claim 13, the suction source includes a jet pump 604.

16. With respect to claims 18-21, the method of use of the drainage device is described in column 11, lines 34-67.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761